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Attorneys for the Uni-Ter Defendants

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

J.M.WOODWORTH RISK RETENTION
GROUP, INC., a Nevada Captive Corporation,

Plaintiff,

v.

UNI-TER UNDERWRITING MANAGEMENT
CORPORATION, a Delaware Corporation;
UNI-TER RISK MANAGEMENT SERVICES
CORPORATION, a Delaware Corporation;
UNI-TER CLAIMS SERVICES
CORPORATION, a Delaware Corporation; and
US RE AGENCIES, INC., a Delaware
Corporation; STATE OF NEVADA, DIVISION
OF INSURANCE OF THE DEPARTMENT OF
BUSINESS AND INDUSTRY; DOES 1 through
X; and ROE ENTITIES XI through XX,

Defendant.

Case No.: 2:13-cv-00911-JAD-PAL

**PISANELLI BICE, PLLC'S
EMERGENCY MOTION TO
WITHDRAW AS COUNSEL**

Pisanelli Bice, PLLC ("Pisanelli Bice"), counsel for Defendants Uni-Ter Underwriting Management Corporation, Uni-Ter Risk Management Services Corporation, Uni-Ter Claims Services Corporation and US Re Agencies, Inc. (collectively the "Uni-Ter Defendants"), hereby submits its Emergency Motion to Withdraw as Counsel (the "Motion"). The Uni-Ter Defendants have not satisfied their obligations and responsibilities owed to Pisanelli Bice arising out of its representation in this matter and have indicated they do not intend to honor those responsibilities in the future. As a result, good cause exists to allow Pisanelli Bice to withdraw from representation to avoid imposing an unreasonable financial burden on the firm. Good cause also exists to hear this matter on an emergency basis to allow Pisanelli Bice to withdraw and to allow

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1 the Uni-Ter Defendants to secure alternative counsel in light of the pending issues before the
2 Court.

3 This Motion is made and based on Local Rules LR IA 10-6 and LR 7-5 and Nevada Rule
4 of Professional Conduct 1.16. The Motion is supported by the following Memorandum of Points
5 and Authorities, the Affidavit of Christopher R. Miltenberger, Esq. attached hereto as Exhibit A,
6 the papers and pleadings on file herein, and any and all oral argument the Court may entertain.

7 DATED this 14th day of January, 2014.

8 PISANELLI BICE PLLC

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10 By 

James J. Pisanelli, Esq., Bar No. 4027
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13 *Attorneys for the Uni-Ter Defendants*
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MEMORANDUM OF POINTS AND AUTHORITIES

Local Rule LR IA 10-6(b) allows an attorney to withdraw as counsel of record for a party by leave of court. Further, LR IA 10-6(e) provides that "[e]xcept for good cause shown, no withdrawal or substitution shall be approved if delay or discovery, the trial or any hearing in the case would result." Similarly, the Nevada Rules of Professional Conduct permit a lawyer to withdraw from representing a client when "[w]ithdrawal can be accomplished without material adverse effect on the interests of the client" or upon a showing of good cause. NRPC 1.16(b)(1), (7). Specifically as it pertains to this instant Motion, Nevada Rule of Professional Conduct 1.16(b) permits withdrawal in the following situations:

(5) The client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;

(6) The representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client;

NRPC 1.16(b)(5), (6).

As reflected in the attached affidavit of Christopher R. Miltenberger, Esq., good cause exists to permit Pisanelli Bice to withdraw from representing the Uni-Ter Defendants in this action. (Ex. A, Miltenberger Aff.) The Uni-Ter Defendants have failed to fulfill their obligations to Pisanelli Bice despite being given reasonable warning that the firm would seek to withdraw if those obligations were not met. (*Id.* at ¶¶ 4-7.) As such, continued representation of the Uni-Ter Defendants will result in an unreasonable financial burden on the firm. (*Id.* at ¶ 8.)

Moreover, the Uni-Ter Defendants will not suffer any material adverse effect from the withdrawal nor will it result in any delay of discovery, the trial, or any hearing in this case. *See* LR IA 10-6(e); (Ex. A, Miltenberger Aff., at ¶ 9). This matter is not currently set for trial. (*Id.*) In fact, the majority of this action is stayed pending a related arbitration. (*Id.*) While this Court has directed supplemental briefing relating to Plaintiff's pending Motion to Remand, the parties have stipulated to an extension of the deadlines for the Uni-Ter Defendants to submit their supplemental briefing. (*Id.*) Likewise, the Uni-Ter Defendants have retained out-of-state lead

1 counsel to manage this matter and the related arbitration proceedings who simply needs to retain
2 separate local counsel to submit his *pro hac vice* petition.¹ (*Id.*) Therefore, good cause exists to
3 permit withdrawal as the Uni-Ter Defendants' rights are adequately protected, they will not suffer
4 any material adverse effect from withdraw, and the withdrawal will not result in any delay in any
5 discovery, trial, or hearing in this action.

6 Based on the foregoing, Pisanelli Bice requests that the Court grant this Motion and enter
7 an order allowing Pisanelli Bice to withdraw as counsel of record for the Uni-Ter Defendants' in
8 this matter.

9 DATED this 14th day of January, 2014.

10 PISANELLI BICE PLLC

11 By

12 
13 James J. Pisanelli, Esq., Bar No. 4027
14 Christopher R. Miltenberger, Bar No. 10153
15 3883 Howard Hughes Parkway, Suite 800
16 Las Vegas, Nevada 89169

17 *Attorneys for the Uni-Ter Defendants*

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28 ¹ A copy of this Motion is being served on opposing counsel, the client representatives, and
on the Uni-Ter Defendants' lead out-of-state counsel, Alan Feldman of Lydecker Diaz.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee of PISANELLI BICE PLLC, and that on this 14 day of January, 2014, I electronically filed the above and foregoing **PISANELLI BICE, PLLC'S EMERGENCY MOTION TO WITHDRAW AS COUNSEL** using the Court's CM/ECF system which will send notification to the following:

Constance L. Akridge, Esq.
Leslie M. Nino, Esq.
HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, Nevada 89134

Attorneys for Plaintiff J.M. Woodworth Risk Retention Group, Inc.

I, the undersigned, hereby certify that I am employee of PISANELLI BICE PLLC, and that on this 14 day of January, 2014, I caused to be sent via e-mail and United States Mail, postage prepaid, a true and correct copy of the above and foregoing **PISANELLI BICE, PLLC'S EMERGENCY MOTION TO WITHDRAW AS COUNSEL** properly addressed to the following:

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An employee of PISANELLI BICE PLLC